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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/712,772	11/13/2003	Robert Field	1721.003US1	7413

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EXAMINER	
NGUYEN, KIEN T	

ART UNIT	PAPER NUMBER
3711	

DATE MAILED: 11/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/712,772	FIELD ET AL.	
	Examiner	Art Unit	
	Kien T. Nguyen	3711	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *12 September 2005*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-20* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-20* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-15, 19, and 20 rejected under 35 U.S.C. 103(a) as being unpatentable over Blair et al. U.S. Patent 5,462,505 in view of Black US 2002/0092218 A1 ('218).

Blair et al disclosed an inflatable as shown in Fig. 1 comprising an inflatable portion (14) having an inlet coupled to a blower (34) to blow air into an interior of the inflatable portion; an open weave section (38) coupled to the inflatable portion and defining a wall or a window of the inflatable. It is noted that the surface of the open weave section (38) does not have an image printed directly on the surface. However, Black disclosed a sports advertising net which could reasonably characterized as open weave, the net is printable directly thereon with graphic or text messages by way of digital printing, silk screen, air brush painting, roller painting, airless spray painting, aerosol painting, dyeing, and other methods (see abstract). Therefore, it would have been obvious to one of ordinary skill in the art to modify the open weave section of Blair et al with the image printed thereon as taught by Black ('218) for the purpose of providing an advertising medium for the inflatable structure.

Regarding claims 3-4, and 12-13, it is noted that Black failed to specifically disclose the resolutions as set forth therein. However, the resolution of the printed image on the net dictated by the size of the mesh. Accordingly, it would have been a

matter of design choice to print the net with any desired or suitable resolution to accommodate any type of the mesh for a specific clarity of the graphic.

Regarding the sizes of the holes as set forth in claims 7 and 8, the recited sizes are within the range from 1/8 " mesh to 4" as stated on page 3 of Black.

Regarding claims 19 and 20, Fig. 2 of Black shows the fence could be seen behind the printed net.

Regarding claims 14 and 15, the size of the image dictated by the types of play environment. Accordingly, it would have been a matter of design choice to choose any particular dimension for the image to accommodate any specific environment.

Regarding claims 6 and 11, the recited material of the open weave section is very well know in the art and widely used children play structures as well as various types of sports net. Accordingly, it would have been a matter of design choice to manufacture the mesh or open weave of Blair et al with any commercially available material to accommodate any type of play environment.

Response to Arguments

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA

1971). In this case, the inflatable structure of Blair et al is typically a large structure at fairgrounds and/or amusement parks. Needless to say, there is always a need for advertising in such environments, especially on a large structure. Therefore, it is submitted that it is within the level of ordinary skill in the art at the time of the claimed invention was made to combine the use of an inflatable and advertising.

In response to applicant's argument that the Black reference is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, both Blair et al and Black use a net as a part of their devices. Therefore, it is entirely reasonable to utilize the teaching of a net that is used in sports environment with advertising means for the net as a part of an inflatable structure in an amusement park.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kien T. Nguyen whose telephone number is (571) 272-4428. The examiner can normally be reached on 7:30 AM-5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eugene Kim can be reached on (571) 272-4463. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Kien T. Nguyen
Primary Examiner
Art Unit 3711

Ktn